

**§ 13.53 Appeal of notice of revocation.**

Within 45 days after the date of receipt of a notice of revocation by operation of law or regulations, the certificate holder may file a written appeal with the Chief, Alcohol and Tobacco Programs Division. The appeal should set forth the reasons why the certificate holder believes that the regulation or law at issue does not require the revocation of the certificate.

**§ 13.54 Decision after appeal.**

(a) *Issuance of decision.* After considering all written arguments and evidence submitted by the certificate holder, the Chief, Alcohol and Tobacco Programs Division, must issue a final decision regarding the revocation by operation of law or regulation of the certificate. If the decision is that the law or regulation at issue requires the revocation of the certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, a letter must be issued explaining the basis for the revocation, and citing the specific laws or regulations which required the revocation of the certificate. If the decision is that the law or regulation at issue does not require the revocation of such certificate, a letter explaining the decision must be sent to the certificate holder. The decision of the Chief, Alcohol and Tobacco Programs Division, will be the final decision of ATF.

(b) *Time limits for decision.* Within 90 days of receipt of an appeal, the Chief, Alcohol and Tobacco Programs Division, must notify the holder whether the appeal has been granted or denied. If a certificate holder requests an informal conference as part of an appeal, as authorized in § 13.71, the 90-day period will begin 10 days after the date of the conference to allow for consideration of any written arguments, facts or evidence submitted after the conference. The Chief, Alcohol and Tobacco Programs Division, may extend this period of time once by an additional 90 days if he or she finds that unusual circumstances require additional time to consider the issues presented by an appeal. If the Chief, Alcohol and Tobacco Programs Division, extends the period, he or she must notify the holder by letter, briefly explaining the

issues presented by the label. The decision of the Chief, Alcohol and Tobacco Programs Division, will be the final decision of ATF.

**Subpart F—Miscellaneous****§ 13.61 Publicity of information.**

(a) *Pending and denied applications.* Pending and denied applications for certificates of label approval, certificates of exemption from label approval, or distinctive liquor bottle approvals are treated as proprietary information, unless the applicant or certificate holder provides written authorization to release such information.

(b) *Approved applications.* The Chief, Product Compliance Branch, shall cause to be maintained in the ATF Library for public inspection, a copy of each approved application for certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval. These documents may be viewed during business hours at 650 Massachusetts Avenue, NW, Washington, DC 20226.

(c) *Revoked certificates.* If an approved certificate is subsequently revoked, the record of the approved application will remain on file for public inspection, but the index will be annotated to show it was revoked.

(d) *Further disclosure of information on denied or revoked certificates.* If an applicant whose application is pending or has been denied, or a holder of a revoked certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, issues public statements concerning ATF action in connection with such application or certificate, then ATF may issue a statement to clarify its position or correct any misstatements of fact, including a disclosure of information contained on the application or certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval.

**§ 13.62. Third-party comment on certificates.**

When a third party (such as foreign government, another Federal agency, a State agency, an industry association, a competitor of a certificate holder, a

consumer or consumer group, or any other interested person) wishes to comment on an approved certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, such comments should be submitted in writing to the Chief, Product Compliance Branch. The Chief, Product Compliance Branch, will review the subject of the comment. If the comment raises an issue that is outside the scope of ATF's statutory or regulatory authority, or the Chief, Product Compliance Branch, determines that the certificate is in compliance with applicable law and regulations, the commenter will be informed that no further action will be taken. If the Chief, Product Compliance Branch, determines that the commenter has raised a valid issue that ATF has authority to address, then the Chief, Product Compliance Branch, will initiate appropriate action. The Chief, Product Compliance Branch, may, in his or her discretion, notify the commenter as to the action being taken by ATF with respect to the certificate.

#### § 13.71 Informal conferences.

(a) *General.* As part of a timely filed written appeal of a notice of denial, a notice of proposed revocation, or a decision of the Chief, Alcohol and Tobacco Programs Division, to revoke a certificate, an applicant or certificate holder may file a written request for an informal conference with the ATF official deciding the appeal, or that official's delegate.

(b) *Informal conference procedures.* The deciding official, or such official's delegate, and the applicant or certificate holder will agree upon a date for an informal conference. The informal conference is for purposes of discussion only, and no transcript shall be made. If the applicant or certificate holder wishes to rely upon arguments, facts, or evidence presented at the informal conference, he or she has 10 days after the date of the conference to incorporate such arguments, facts, or evidence in a written submission to the deciding official.

#### § 13.72 Effective dates of revocations.

(a) *Effective dates—(1) Revocation of specific certificates.* A written decision

to revoke a certificate becomes effective 60 days after the date of the decision.

(2) *Revocation by operation of law or regulation.* If a certificate is revoked by operation of law or regulation, the revocation becomes effective on the effective date of the change in law or regulation with which the certificate does not comply, or if a separate label compliance date is given, on that date.

(b) *Use of certificate during period of appeal.* If a certificate holder files a timely appeal after receipt of a decision to revoke a certificate from the Chief, Alcohol and Tobacco Programs Division, pursuant to § 13.45, the holder may continue to use the certificate at issue until the effective date of a final decision issued by the Assistant Director, Alcohol and Tobacco. However, the effective date of a notice of revocation by operation of law or regulations, issued pursuant to § 13.52, is not stayed pending the appeal.

#### § 13.73 Effect of revocation.

On and after the effective date of a revocation of a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, the label or distinctive liquor bottle in question may not be used to bottle or pack distilled spirits, wine or malt beverages, to remove such products from the place where they were bottled or packed, or to remove such products from customs custody for consumption.

#### § 13.74 Surrender of certificates.

On the effective date of a final decision that has been issued by the Chief, Alcohol and Tobacco Programs Division, or the Assistant Director, Alcohol and Tobacco, to revoke a certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval, the certificate holder must surrender the original of the certificate to ATF for manual cancellation. Regardless of whether the original certificate of label approval, certificate of exemption from label approval, or distinctive liquor bottle approval has been manually canceled or not, the certificate is null and void after the effective date of the revocation. It is a violation of this section for